

Zoning Board of Adjustment Meeting Minutes
March 27, 2013

Attendance: Chairman Kent Lawrence, Judy Hurlbert, Dave Sweet and Steve Coes.

The meeting was called to order at 7:08pm.

Chairman Lawrence announced that the Windroc Vineyards –Jerry Hillard applications (Case #13-01-30-01, #13-30-02, and #13-30-03) for variance, and administrative appeals were withdrawn by Attorney Pelech in a letter received yesterday and dated March 26, 2013 .

The remaining item to hear is the motion for rehearing and supplemental motion submitted by John Hayden.

The Board met privately with Attorney Fran Lane and returned at 8:00pm.

The Board discussed the motion for rehearing and supplemental motion as one. The same Board members, Kent Lawrence, Judy Hurlbert and Steve Coes were present tonight as were at the original hearing in January. Dave Sweet was also in attendance but did not participate in the discussion with Town Counsel or the deliberation.

Kent said that it is unclear when the draft minutes of the January 9, 2013 meeting were approved. It was a number of days later and the minutes were sent out for board members to review. The Board did not change anything in that draft and the draft has been approved by all of them. However, we did not have record of exactly when that happened. In his opinion, there was no harm done by that even if it was late. At the time of the original hearing we heard from all parties, there was discussion about the Board of Selectmen letter dated November 13, 2012 and the Zoning Board determined that no ordinance was misconstrued or that there were no decisions made by the Selectmen at that time. These items are all reflected in the minutes clearly.

Steve reviewed the sequence of events. The appeal of an administrative decision was heard on January 9, 2013 and at that time we heard from the applicant John Hayden, Attorney Pelech, Attorney John Ratigan and Attorney Fran Lane who briefed us and we came up with a decision. John Hayden appealed the decision in a letter dated February 7. The motion for rehearing was continued based on a request by John Hayden and on March 11 a supplemental motion for rehearing was submitted.

The ZBA decided that the Board of Selectmen made no decisions or misinterpretations in their letter of November 13, 2012 to Jerry Hillard. He sees there being no basis for rehearing. Steve has reviewed his notes of the meetings and he finds nothing that would change his mind about the original hearing decision.

Kent read RSA 674:20 which states, “The ZBA does not have authority over the board of Selectmen or enforcement official on whether or not to enforce the ordinance. That sentence by itself may clarify some unresolved contentions that are out there regarding parts of this case. At this point, the board must decide if there is new information or if the ZBA made a mistake in the first place. Kent said he does not see that.

Fran noted the language in RSA 676:5 II-b- A “decision of the administrative officer” includes any decision involving construction, interpretation or application of the terms of the ordinance. A motion was made by Steve Coes and seconded by Kent to deny the applicant’s motion for rehearing based on the information considered from the original submittal and supplemental materials provided by the applicant and further provided by town counsel. All were in favor and the motion carried.

A motion was made by Judy and seconded by Steve to approve the February minutes as written. All were in favor and the motion carried.

With no further business to conduct the meeting adjourned at 8:15pm.

Kent Lawrence, ZBA Chair